

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
CHESAPEAKE UTILITIES CORPORATION)
FOR APPROVAL OF A CHANGE IN ITS) PSC DOCKET NO. 07-299
ENVIRONMENTAL RIDER RATE TO BE)
EFFECTIVE DECEMBER 1, 2007)
(FILED NOVEMBER 1, 2007))

FINDINGS AND ORDER NO. 7360

AND NOW, to-wit, this 5th day of February, 2008, the Public Service Commission ("PSC" or "Commission") makes the following findings, determination, and Order:

I. APPEARANCES

On behalf of the Applicant, Chesapeake Utilities Corporation - Delaware Division ("Chesapeake" or "Company"):

Parkowski, Guerke & Swayze, P.A.,
BY: WILLIAM A. DENMAN, ESQUIRE

On behalf of the Public Service Commission Staff ("Staff"):

WILLIAM F. O'BRIEN, DEPUTY ATTORNEY GENERAL, RATE COUNSEL

II. BACKGROUND

1. In PSC Order No. 4104 (Dec. 19, 1995) entered in PSC Docket No. 95-73, the Commission authorized an annually adjusted surcharge mechanism to allow Chesapeake Utilities Corporation ("Chesapeake" or "Company") to recover the expenses it incurs for remediation of environmental damage liabilities. On November 1, 2007, Chesapeake made application to the Commission for approval of a decrease in the Environmental Rider ("ER") rate (resulting in an increase to the existing credit to customers) to be effective on December 1, 2007, with such rate to continue until the end of the recovery year, or

November 30, 2008. The decrease requested is from a credit of \$0.0022 per Ccf to a credit of \$0.0053 per Ccf. Under the proposed rates, residential space heating customers using 120 Ccf of gas in the winter months would experience a decrease of approximately 0.2 percent or \$0.38 per month.

2. In addition, Chesapeake requests permission to terminate its ER rate at the end of this recovery year, November 30, 2008, and to include any over-refund or under-refund balance, which it expects to be minimal, in its Gas Sales Service Rate ("GSR") application to be filed on September 1, 2008, with an effective date of November 1, 2008.

3. Pursuant to 26 *Del. C.* §§ 304 and 306, the Commission, in Order No. 7317 (Nov. 20, 2007), permitted the proposed rate change to go into effect on December 1, 2007, on a temporary basis subject to refund, pending full evidentiary hearings.

4. At the direction of the Commission, Chesapeake published notices of this proposed adjustment to its ER rate in The News Journal and Delaware State News newspapers on November 29, 2007. The notices (Exhs. 1A & 1B) established a time period for intervention petitions and announced that the Commission would hold a hearing on the proposed rate adjustment at its regular meeting on February 5, 2008. No one petitioned for intervention.

5. On February 5, 2008, the Commission conducted a public evidentiary hearing. No members of the public attended the hearing or submitted written comments. The Company and Staff each presented one

witness. The record, as developed at the hearing, consists of a verbatim transcript and two exhibits.

III. SUMMARY OF EVIDENCE

6. Jennifer A. Clausius, Manager for Pricing and Regulation for Chesapeake, submitted pre-filed direct testimony, dated November 1, 2007. Exh. 2. Ms. Clausius described the purpose of the ER rate and provided calculations to support the Company's proposed change in the ER rate from (\$0.0022) per Ccf to (\$0.0053) per Ccf. According to Ms. Clausius, the purpose of the ER rate is to allow Chesapeake to recover environmental expenses associated with cleaning up former manufactured gas plant ("MGP") sites, which for this filing includes the Dover Gas Light Site and the Smyrna Gas Plant Site. Exh. 2 at 4. Recoverable environmental costs include investigation, testing, monitoring, remediation (including remediation of the groundwater), land acquisition, and legal costs relating to former MGP sites, disposal sites, or sites to which material may have migrated as a result of the earlier operation or decommission of the plants.

7. Ms. Clausius testified that the reason for the proposed decrease in the ER rate is that the Company did not incur any expenses during the applicable time period (*i.e.*, October 1, 2006, to September 30, 2007) because its obligations with respect to the Dover Gas Light Site ended upon the approval of a Consent Decree by the U.S. District Court on July 18, 2003. Exh. 2 at 7-8. In addition, Chesapeake received a net payment in August 2003 of \$1,150,000 as a result of the settlement of its litigation against GPU, Inc., which

was approved by the Court in July 2003. This year's rate remains a credit because the Company has collected the costs that it incurred and is returning to customers the net payment that it received.

8. In addition, Ms. Clausius testified that because Chesapeake expects to incur no more recoverable remediation expenses and because it included in this filing the entire balance relating to the settlement payment it received in August 2003, Chesapeake seeks approval to terminate its ER at the end of the current recovery year, or November 30, 2008. Ms. Clausius recommended that any remaining balance, which would be the result of over-refund or under-refund of amounts included in this filing, be rolled into Chesapeake's next GSR application, which will have a rate-effective date of November 1, 2008.

9. Pamela Knotts, a Public Utilities Analyst for Commission Staff, testified that Staff reviewed the Company's ER schedules and calculations and concluded that the calculations were correct and the requested rate was appropriate. No audit of the Company's accounts was necessary as there were no expenses claimed. Based on its review, Staff recommended approval of the Company's application.

10. In addition, Ms. Knotts recommended approval of Chesapeake's request to terminate its ER rate at the end of the current recovery year and roll any remaining balance into its next GSR application. Ms. Knotts explained that because Chesapeake's ER recovery year ends after it files its next GSR application, Chesapeake should estimate the amount it will refund for the period of August 1

to November 30, 2008, and include the estimated balance in its GSR application. Then, at the end of the recovery year, Chesapeake should provide Staff its calculation of the actual balance and then adjust its GSR Over/Under Collection balance to reflect the difference between the actual balance and the estimate. Ms. Knotts noted that the Company agrees with this recommendation.

IV. DISCUSSION AND CONCLUSIONS

11. The Commission has jurisdiction in this matter pursuant to 26 Del. C. § 304.

12. As discussed above, Staff verified that Chesapeake developed the proposed ER rate in accordance with the environmental remediation recovery mechanism approved by the Commission in PSC Order No. 4104 (Dec. 19, 1995) in PSC Docket No. 95-73. Because of the net payment Chesapeake received in 2003 from a third party, and because the Company did not incur any ER expenses during the applicable time period (*i.e.*, October 1, 2006, to September 30, 2007), this year's ER results in a slightly increased credit to the customers. Based on the evidence presented, the Commission finds that the proposed ER rate is just and reasonable and in compliance with the Company's tariff.

13. In its Order approving the Company's last ER filing (PSC Docket No. 06-355, Order No. 7117 (Jan. 23, 2007)), the Commission directed Staff and the Company to work together to develop an ER rate that will eliminate the small remaining balance associated with this account. In response, Staff and the Company now recommend including in this ER rate the remaining costs or payments from the environmental

cost years ending September 30, 2003 and 2004 plus the reconciliation factor and then recovering (or refunding) the actual balance as part of the Company's next GSR application. Because it is undisputed that the remaining balance will be minimal, the Commission will accept the parties' proposal regarding termination of the ER rate after this recovery year, with a subsequent true-up via the Company's GSR. In this way, Staff and the Company can avoid the administrative expenses associated with continuing the ER rate beyond this recovery year while accurately accounting for any remaining balance.

Now, therefore, **IT IS ORDERED:**

1. That, Chesapeake Utilities Corporation's proposed Environmental Rider rate of a credit of \$0.0053 per Ccf, which represents a decrease of \$0.0031 per Ccf, is approved as a just and reasonable rate, effective for services provided on and after December 1, 2007.

2. That, Chesapeake Utilities Corporation shall terminate its Environmental Rider rate at the end of this recovery year, or November 30, 2008, and include any remaining balance in its next Gas Sales Service Rate application, to be filed on September 1, 2008, as discussed above. On November 1, 2008, Chesapeake Utilities Corporation should file revised tariff leaves showing elimination of the Environmental Rider rate, effective November 30, 2008.

3. That, the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary